

Message Text

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SUBJ: COURT LEGALIZES IMPORTATION OF CONTRACEPTIVES

REF: DUBLIN 1555

SUMMARY: UPREME COURT DECISION HAS LEGALIZED IMPORTATION, BUT NOT SALE, OF CONTRACEPTIVES. THIS LEAVES NEED FOR SOME LEGISLATION BEFORE FAMILY PLANNING IS PRACTICAL ON WIDE SCALE. POLITICAL DEBATE ON SUBJECT CONTINUES EXCEPTIONALLY HEATED, OFTEN FOCUSING ON NEED FOR NORTH-SOUTH RECONCILIATION.

1. IN FOUR-TO-ONE SPLIT DECISION DECEMBER 19, IRISH SUPREME COURT DECLARED UNCONSTITUTIONAL SECTION OF LAW PROHIBITING IMPORTATION OF CONTRACEPTIVES. DECISION APPLIED TO MARRIED COUPLES ONLY AND DID NOT LEGALIZE SALE OF CONTRACEPTIVES, ALTHOUGH AUTHOR OF MAJORITY DECISION IMPLIED THAT THERE SHOULD NOT BE EXCESSIVE CURBS ON DISTRIBUTION. DECISION WAS LARGELY BASED ON ONE SPECIFIC POINT IN CIVIL RIGHTS: "IT IS OUTSIDE THE AUTHORITY OF THE STATE TO ENDEAVOUR TO INTRUDE INTO THE PRIVACY OF THE HUSBAND AND WIFE RELATIONSHIP FOR THE SAKE OF IMPOSING A CODE OF PRIVATE MORALITY UPON THAT HUSBAND AND WIFE WHICH THEY DO NOT DESIRE."

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2. GOVERNMENT WILL PROBABLY FEEL OBLIGED TO INTRODUCE LEGISLATION

RECTIFYING ANOMALIES LEFT BY COURT DECISION. THIS WOULD REQUIRE LEGALIZING SALE AS WELL AS IMPORTATION AND USE OF CONTRACEPTIVES. LEGISLATION COULD STILL BE DIFFICULT, HOWEVER. ANYONE LIVING OUTSIDE IRELAND WOULD FIND IT DIFFICULT TO UNDERSTAND HEAT GENERATED BY THIS ISSUE. IN RECENT MONTHS, IT HAS BEEN LEADING ITEM OF PUBLIC AND POLITICAL DEBATE, ONLY OCCASIONALLY OVERSHADOWED BY RECEIPT BREAKTHROUGHS IN NORTH-SOUTH RELATIONS. SOME OF ARGUMENTS MUSTERED FOR CONTRACEPTION DEBATE ARE REMARKABLE. IN DECEMBER 19 DECISION, FOR EX-AMPLE, THE ONE DISSENTING SUPREME COURT JUSTICE ARGUED THAT PROHIBITION ON IMPORTATION OF CONTRACEPTIVES DID NOT NECESSARILY INFRINGE PLAINTIFF'S CIVIL RIGHTS, BECAUSE SHE COULD HAVE ANALYZED CHEMICAL COMPOSITION OF CONTRACEPTIVE JELLY AND MANUFACTURED IT. PLAINTIFF WAS WIFE OF A POOR FISHERMAN. DOCTORS TESTIFIED THAT HER LIFE WOULD HAVE BEEN ENDANGERED BY ANOTHER PREGNANCY.

3. LEADING OPPOSITION PARTY, FIANNA FAIL, HAS BEEN SHOWING SIGNS OF COMING DOWN AGAINST CONTRACEPTION AS A MATTER OF POLITICAL EXPEDIENCY. EDITOR OF PRO-FIANNA FAIL IRISH PRESS TOLD US HE HAS BEEN INSTRUCTED TO OPPOSE CONTRACEPTION. A PARTY LEADER WHO IS PERSONALLY IN FAVOR OF LIBERALIZATION TOLD US FIANNA FAIL WOULD PROBABLY DECIDE TO VOTE UNANIMOUSLY AGAINST CONTRACEPTION. CONSTITUENT PRESSURE, HE SAID, WAS VERY STRONG. HIS OWN WIFE WAS VIOLENTLY OPPOSED TO LEGALIZATION OF CONTRACEPTIVES, EVEN THOUGH SHE HAD USED THEM HERSELF, BECAUSE SHE DID NOT WANT PERMISSIVE CLIMATE FOR HER CHILDREN. (PROTECT INFO IN THIS PARAGRAPH.)

4. STATEMENT BY CATHOLIC BISHOPS SEEMS CLEARLY TO HAVE FRIGHTENED SOME POLITICIANS AWAY FROM LEGALIZATION OF CONTRACEPTION. SOME OBSERVERS THINK BISHOPS TIPPED SCALES AGAINST A BILL PENDING IN SENATE. TWO PROTESTANT CHURCHES MADE STATEMENTS URGING FREEDOM OF CONSCIENCE, FURTHER POLITICIZING THE CHURCH/STATE ISSUE AND HIGH-LIGHTING ITS SIGNIFICANCE FOR NORTH/SOUTH RAPPROCHEMENT. IN GENERAL, LEADERS ON BOTH SIDES OF BORDER WHO ARE COOL TO NORTH/SOUTH REUNIFICATION HAVE ARGUED THAT MEASURE WOULD HAVE NO PRACTICAL EFFECT. ON OTHER HAND, THOSE WHO WANT UNITY, INCLUDING SDLP, HAVE ARGUED THAT DEFEAT OF LEGISLATION TO LEGALIZE CONTRACEPTION WOULD AT LEAST HAVE IMPORTANT NEGATIVE EFFECT.

5. HOT DEBATE WILL CONTINUE UNTIL LEGISLATION IS PASSED. AS A LIMITED OFFICIAL USE

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PRACTICAL MATTER, SUPREME COURT DECISION HAS PROBABLY DETERMINED THAT CONTRACEPTIVES WILL BE READILY AVAILABLE TO THOSE SUFFICIENTLY DETERMINED, EDUCATED, OR WEALTHY. FULL FAMILY-PLANNING SERVICES MAY STILL BE INHIBITED AND OBJECTIVE OBSERVERS WILL NOT YET BE CONVINCED THAT REPUBLIC IS FULLY SECULAR STATE.
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